



General Assembly

January Session, 2003

Amendment

LCO No. 7321

HB0502207321HD0

Offered by:

REP. BERGER, 73rd Dist.
REP. LAWLOR, 99th Dist.
REP. FARR, 19th Dist.
REP. PETERS, 30th Dist.
SEN. HARTLEY, 15th Dist.
REP. CONWAY, 75th Dist.
REP. MICHELE, 77th Dist.
REP. AMANN, 118th Dist.
REP. MAZUREK, 80th Dist.
REP. NOUJAIM, 74th Dist.
REP. FREY, 111th Dist.
REP. TONUCCI, 104th Dist.
REP. BERNHARD, 136th Dist.

REP. D'AMELIO, 71st Dist.
REP. MIKUTEL, 45th Dist.
REP. FERRARI, 62nd Dist.
REP. ROY, 119th Dist.
REP. STONE, 9th Dist.
REP. OREFICE, 37th Dist.
REP. BOUKUS, 22nd Dist.
REP. METZ, 101st Dist.
REP. GOOGINS, 31st Dist.
REP. BEAMON, 72nd Dist.
REP. WIDLITZ, 98th Dist.
REP. COLLINS, 117th Dist.

To: Subst. House Bill No. 5022

File No. 613

Cal. No. 417

***"AN ACT REQUIRING THE COLLECTION OF DNA SAMPLES
FROM PERSONS CONVICTED OF A CRIME."***

-
- 1 In line 3, strike the opening bracket
 - 2 In line 5, before "or" insert an opening bracket
 - 3 In line 7, strike "crime, as defined in section 53a-" and insert in lieu
 - 4 thereof "a felony or a violation of section 53a-62, 53a-82, 53a-83, 53a-

- 5 83a, 53a-89, 53a-90a, 53a-106, 53a-108, 53a-109, 53a-181d, 53a-181e, 53a-
6 186, 53a-189a, 53a-222 or 53a-223b"
- 7 In line 8, strike "24"
- 8 In line 14, strike the opening bracket
- 9 In line 16, before "or" insert an opening bracket
- 10 In line 18, strike "crime, as defined in" and insert in lieu thereof "a
11 felony or a violation of section 53a-62, 53a-82, 53a-83, 53a-83a, 53a-89,
12 53a-90a, 53a-106, 53a-108, 53a-109, 53a-181d, 53a-181e, 53a-186, 53a-
13 189a, 53a-222 or 53a-223b"
- 14 In line 19, strike "section 53a-24"
- 15 In line 26, strike the opening bracket
- 16 In line 28, before "or" insert an opening bracket
- 17 In line 30, strike "crime, as defined in section" and insert in lieu
18 thereof "a felony or a violation of section 53a-62, 53a-82, 53a-83, 53a-
19 83a, 53a-89, 53a-90a, 53a-106, 53a-108, 53a-109, 53a-181d, 53a-181e, 53a-
20 186, 53a-189a, 53a-222 or 53a-223b"
- 21 In line 31, strike "53a-24"
- 22 In line 40, strike "crime, as defined in" and insert in lieu thereof
23 "felony or a violation of section 53a-62, 53a-82, 53a-83, 53a-83a, 53a-89,
24 53a-90a, 53a-106, 53a-108, 53a-109, 53a-181d, 53a-181e, 53a-186, 53a-
25 189a, 53a-222 or 53a-223b"
- 26 In line 41, strike "section 53a-24"
- 27 In line 123, before "The" insert an opening bracket
- 28 In line 124, strike "or other biological"
- 29 In line 125, after the period, insert a closing bracket

30 After line 148, insert the following:

31 "(b) Upon the request of a person from whom a blood or other
32 biological sample has been taken pursuant to sections 54-102g and 54-
33 102h, as amended by this act, a copy of such person's DNA profile
34 shall be furnished to such person."

35 In line 149, bracket "(b)" and after the closing bracket insert "(c)"

36 In line 156, bracket "(c)" and after the closing bracket insert "(d)"

37 In line 163, bracket "(d)" and after the closing bracket insert "(e)"

38 In line 170, bracket "(e)" and after the closing bracket insert "(f)"

39 After the last section, add the following and renumber sections and
40 internal references accordingly:

41 "Sec. 501. (NEW) (*Effective October 1, 2003*) (a) There is established a
42 DNA Data Bank Oversight Panel composed of the Chief State's
43 Attorney, the Attorney General, the Commissioner of Public Safety
44 and the Commissioner of Correction, or their designees. The Chief
45 State's Attorney shall serve as chairperson of the panel and shall
46 coordinate the agencies responsible for the implementation and
47 maintenance of the DNA data bank established pursuant to section 54-
48 102j of the general statutes, as amended by this act.

49 (b) The panel shall take such action as necessary to assure the
50 integrity of the data bank including the destruction of inappropriately
51 obtained samples and the purging of all records and identifiable
52 information pertaining to the persons from whom such
53 inappropriately obtained samples were collected.

54 (c) The panel shall meet on a quarterly basis and shall maintain
55 records of its meetings. Such records shall be retained by the
56 chairperson.

57 Sec. 502. (NEW) (*Effective October 1, 2003*) (a) For the purposes of this

58 section and section 503 of this act:

59 (1) "DNA testing" means forensic deoxyribonucleic acid testing; and

60 (2) "Agent" means a person, firm or corporation to whom the state
61 police or a local police department entrusts or delivers evidence to
62 undergo DNA testing.

63 (b) Upon the conviction of a person of a capital felony or the
64 conviction of a person of a crime after trial, or upon order of the court
65 for good cause shown, the state police, all local police departments,
66 any agent of the state police or a local police department and any other
67 person to whom biological evidence has been transferred shall
68 preserve all biological evidence acquired during the course of the
69 investigation of such crime for the term of such person's incarceration.

70 (c) The state police, a local police department, an agent or any
71 person to whom biological evidence has been transferred may be
72 relieved of the obligation to preserve biological evidence as provided
73 in subsection (b) of this section by applying to the court in which the
74 defendant's case was prosecuted for permission to destroy such
75 biological evidence. Upon receipt of the application, the court shall
76 give notice to all defendants charged in connection with the
77 prosecution and shall hold a hearing. After such hearing, the court
78 shall grant the application if it finds that the Connecticut Supreme
79 Court has decided the defendant's appeal and the defendant does not
80 seek further preservation of the biological evidence, or for good cause
81 shown.

82 Sec. 503. (NEW) (*Effective October 1, 2003*) (a) Notwithstanding any
83 other provision of law governing postconviction relief, any person
84 who was convicted of a crime and sentenced to incarceration may, at
85 any time during the term of such incarceration, file a petition with the
86 sentencing court requesting the DNA testing of any evidence that is in
87 the possession or control of the Division of Criminal Justice, any law
88 enforcement agency, any laboratory or the superior court. The
89 petitioner shall state under penalties of perjury that the requested

90 testing is related to the investigation or prosecution that resulted in the
91 petitioner's conviction and that the evidence sought to be tested
92 contains biological evidence.

93 (b) After notice to the prosecutorial official and a hearing, the court
94 shall order DNA testing if it finds that:

95 (1) A reasonable probability exists that the petitioner would not
96 have been prosecuted or convicted if exculpatory results had been
97 obtained through DNA testing;

98 (2) The evidence is still in existence and is capable of being subjected
99 to DNA testing;

100 (3) The evidence, or a specific portion of the evidence identified by
101 the petitioner, was never previously subjected to DNA testing, or the
102 testing requested by the petitioner may resolve an issue that was never
103 previously resolved by previous testing; and

104 (4) The petition before the Superior Court was filed in order to
105 demonstrate the petitioner's innocence and not to delay the
106 administration of justice.

107 (c) After notice to the prosecutorial official and a hearing, the court
108 may order DNA testing if it finds that:

109 (1) A reasonable probability exists that the requested testing will
110 produce DNA results which would have altered the verdict or reduced
111 the petitioner's sentence if the results had been available at the prior
112 proceedings leading to the judgment of conviction;

113 (2) The evidence is still in existence and is capable of being subjected
114 to DNA testing;

115 (3) The evidence, or a specific portion of the evidence identified by
116 the petitioner, was never previously subjected to DNA testing, or the
117 testing requested by the petitioner may resolve an issue that was never
118 previously resolved by previous testing; and

119 (4) The petition before the Superior Court was filed in order to
120 demonstrate the petitioner's innocence and not to delay the
121 administration of justice.

122 (d) The costs of DNA testing ordered pursuant to this section shall
123 be borne by the state or the petitioner, as the court may order in the
124 interests of justice, except that DNA testing shall not be denied because
125 of the inability of the petitioner to pay the costs of such testing.

126 (e) In a proceeding under this section, the petitioner shall have the
127 right to be represented by counsel and, if the petitioner is indigent, the
128 court shall appoint counsel for the petitioner in accordance with
129 section 51-296 of the general statutes.

130 Sec. 504. (NEW) (*Effective October 1, 2003*) (a) The Chief Court
131 Administrator shall establish an advisory commission to review any
132 criminal or juvenile case involving a wrongful conviction and
133 recommend reforms to lessen the likelihood of a similar wrongful
134 conviction occurring in the future. The advisory commission shall
135 consist of the Chief State's Attorney, the Chief Public Defender and the
136 Victim Advocate, or their designees, a representative from the
137 Connecticut Police Chiefs Association, a representative from the
138 Connecticut Bar Association, and representatives from one or more
139 law schools in this state and one or more institutions of higher
140 education in this state that offer undergraduate programs in criminal
141 justice and forensic science.

142 (b) Whenever a person who has been convicted of a crime is
143 subsequently determined to be innocent of such crime and exonerated,
144 the advisory commission may conduct an investigation to determine
145 the cause or causes of the wrongful conviction. Such investigation shall
146 include, but not be limited to, an examination of the nature and
147 circumstances of the crime, the background, character and history of
148 the defendant, and the manner in which the investigation, evidence
149 collection, prosecution, defense and trial of the case was conducted.
150 Notwithstanding any provision of the general statutes concerning the

151 confidentiality, erasure or destruction of records, the advisory
152 commission shall have access to all police and court records and
153 records of any prosecuting attorney pertaining to the case under
154 investigation. The advisory commission shall not further disclose such
155 records.

156 (c) Upon the conclusion of its investigation, the advisory
157 commission shall report its findings and any recommendations it may
158 have for reforms to lessen the likelihood of similar wrongful
159 convictions occurring in the future to the joint standing committee of
160 the General Assembly on the judiciary, in accordance with the
161 provisions of section 11-4a of the general statutes, and to other
162 interested persons as deemed appropriate including the Chief Court
163 Administrator, the Chief State's Attorney, the Chief Public Defender,
164 the Commissioner of Public Safety and the chief of any local police
165 department involved in the investigation of the case."